

Amendments to House Bill No. 240
1st Reading Copy

Requested by Representative Bob Wagner

For the House Judiciary Committee

Prepared by David Niss
February 15, 2011 (3:27pm)

1. Title, line 8.

Following: "POLICIES;"

Insert: "PROVIDING CERTAIN TAX RATES FOR TRANSMISSION LINES FOR
WHICH EMINENT DOMAIN MAY BE USED;"

Following: "SECTIONS"

Insert: "70-30-101,"

2. Page 1.

Following: line 11

Insert: "Section 1. Section 70-30-101, MCA, is amended to read:

"70-30-101. **Eminent domain defined -- definitions.** (1)

Eminent domain is the right of the state to take private property for public use. This right may be exercised in the manner provided in this chapter.

(2) As used in this chapter, unless the context indicates otherwise, the following definitions apply:

(a) "Appraisal" means a written statement, independently and impartially prepared by a certified real estate appraiser, as defined in 37-54-102, setting forth an opinion of defined value of an adequately described property as of a specific date and supported by the presentation and analysis of relevant market information.

(b) "Coercive in nature" means a type of action that uses duress in an attempt to induce a person to sign an instrument or to agree to the terms of a document against that person's will.

(c) "Condemnor" means a department, agency, or instrumentality of the state or a political subdivision of the state, a department, agency, or instrumentality of two or more states, or a person who has the authority to acquire property by eminent domain as provided in this chapter.

(d) "Every reasonable effort" means the effort that a reasonable person acting as a motivated buyer would use to accomplish the purchase of a property interest of a reluctant seller.

(e) "Final written offer" means the last written offer presented to the condemnee at least 30 days before service of

process in a civil action pursuant to 70-30-202.

(f) "Negotiation" means a communication process of give-and-take discussions between parties that is intended to produce a settlement or an agreement.

(g) "Person" means an individual, partnership, corporation, or association."

{Internal References to 70-30-101: None.}

Renumber: subsequent sections

3. Page 1, line 25.

Strike: "or" through the second "of"

4. Page 2, lines 12 and 13.

Strike: "after" on line 12 through "taken," on line 13

5. Page 2, line 13.

Strike: "that offer was rejected in writing; and"

Insert: "the property owner was given 30 days to provide a written acceptance or rejection of the offer. A written offer is considered rejected if no response is made within 30 days after its delivery."

6. Page 2, line 14.

Strike: "[section 4]"

Insert: "[section 5] and 70-31-301"

7. Page 2, line 15

Strike: "._"

Insert: "; and

(6) that there have been no actions coercive in nature to compel an agreement on the price to be paid for the property."

8. Page 2, line 21.

Strike: "final"

9. Page 3, line 3 through line 4.

Strike: "for which" on line 3 through "70-31-301" on line 4

10. Page 3.

Following: line 4

Insert: "(1) Before the initiation of negotiations for the acquisition of real property, an amount must be established

that is reasonably believed to be just compensation for the property or interest taken and that amount must be offered for the property. The amount may not be less than the approved appraisal of the fair market value of the property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for the improvement, other than an amount due to physical deterioration within the reasonable control of the owner, must be disregarded in determining the compensation for the property. The owner of the real property to be acquired must be provided with a written statement of and summary of the basis for the amount established as just compensation. When appropriate, the just compensation for the real property acquired and for damages to remaining real property must be separately stated."

Renumber: subsequent subsections

11. Page 3, line 6.

Following: "negotiation"

Insert: "using the following process before a civil action for condemnation may be brought pursuant to 70-30-202:

(a) If within 4 months of the initial offer a voluntary property interest agreement has not been signed by both parties, then a formal mediation process may begin. The mediation process must be paid for by the person acquiring the property.

(b) If mediation efforts do not produce a settlement agreement for a mutually signed property interest agreement, the person acquiring the property shall make the final written offer provided for in 70-30-111.

(c) The property owner or the property owner's agent has 30 days to either accept or reject the final written offer, and a lack of response on the part of the property owner within that time means that the property owner has rejected the final written offer.

(d) If the person acquiring the property has complied with 70-30-111, a civil action may be filed pursuant to 70-30-202"

12. Page 3, line 10 through line 19.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

13. Page 3, line 21.

Strike: the first "is"

Insert: "and relocation costs are"

14. Page 3, line 22.

Strike: "approved" through "property"

Insert: "amount of the condemnor's final written offer"

15. Page 4, line 3.

Following: "property."

Insert: "If condemnation is initiated pursuant to 70-30-202, the amount of the condemnor's final written offer must be deposited with the court for the use of the condemnee."

16. Page 4.

Following: line 12

Insert: "NEW SECTION. Section 6. Taxation of property acquired for electric transmission lines. (1) If an electric transmission line that requires a certificate of compliance under the Montana Major Facility Siting Act, Title 75, chapter 20, is sited on privately held deeded real property that is acquired through a voluntary agreement with the property owner, the centrally assessed value for that portion of the privately held deeded real property is subject to the tax rate of either 1 percentage point less than the rate for class fourteen property, as provided in 15-6-157, for renewable energy projects, or 1 percentage point less than the tax rate for class nine property, as provided in 15-6-141, for other transmission projects, as determined by the department of environmental quality pursuant to 15-6-157(2)(a).

(2) If an electric transmission line that requires a certificate of compliance under the Montana Major Facility Siting Act is sited on privately held deeded real property that is acquired by a civil action pursuant to 70-30-202, that property is subject to a tax rate that is 3 percentage points higher than the tax rate for class nine property, as provided in 15-6-141.

(3) If an entity reaches voluntary property agreements with 97% of the landowners owning property acquired for the transmission line, the entity is entitled to the lowest property tax rate for transmission projects provided by law."

Renumber: subsequent sections

17. Page 4, line 14.

Following: "instruction."

Insert: "(1)"

Strike: "4"

Insert: "5"

18. Page 4, line 15.

Strike: "4"

Insert: "5"

19. Page 4.

Following: line 15

Insert: "(2) [Section 6] is intended to be codified as an
integral part of Title 15, chapter 24, and the provisions of
Title 15, chapter 24, apply to [section 6]."

- END -